



**KNIGHT
FIRST AMENDMENT
INSTITUTE at
COLUMBIA UNIVERSITY**

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July 20, 2020

Via ECF and Electronic Mail

The Honorable Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Knight First Amendment Institute at Columbia University v.
Centers for Disease Control and Prevention and U.S. Department
of Health and Human Services*, 20 Civ. 2761 (AT)

Dear Judge Torres:

Plaintiff the Knight First Amendment Institute at Columbia University and Defendants the Centers for Disease Control and Prevention and the U.S. Department of Health and Human Services write in response to this Court's Order dated July 10, 2020 in the above-captioned matter. *See* ECF No. 27. As background, this matter arises under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). Plaintiff seeks the disclosure of records concerning the "circumstances in which CDC employees may communicate with members of the press and the public," particularly as those records relate to public communications about the ongoing coronavirus pandemic. *See* Am. Compl. ¶¶ 16–17, ECF No. 17.

The parties write jointly to inform the Court that there remain outstanding disputes as to some of the records Defendants withheld in full or in part. To resolve these disputes, the parties intend to file cross-motions for summary judgment. Specifically, Plaintiff intends to challenge the withholding of certain information from the records

described in the list attached as Exhibit A. Plaintiff is not challenging any withholdings other than those specified in Exhibit A.

Given Plaintiff's interest in resolving all challenges to the CDC's withholdings as quickly as possible, the parties have conferred and respectfully propose that the Court adopt the following briefing schedule and modified page limits:

- **August 19, 2020:** Defendants provide Plaintiff with a draft *Vaughn* index.¹
- **August 28, 2020:** Defendants file their motion for summary judgment and any supporting materials, including the final version of the *Vaughn* index. [30 pages]
- **September 11, 2020:** Plaintiff files its cross-motion for summary judgment and opposition to Defendants' motion. [30 pages]
- **September 25, 2020:** Defendants file their opposition to Plaintiff's motion and reply in further support of their motion. [30 pages]
- **October 9, 2020:** Plaintiff files its reply in further support of its motion. [30 pages]

As indicated above, Plaintiff requests, with the consent of Defendants, an additional 15 pages for its reply brief so that the parties have equal space in support of their cross-motions.

In light of the parties' agreement on a briefing schedule and the nature of these FOIA claims, which are typically resolved on motions for summary judgment, *see Families for Freedom v. U.S. Customs & Border Prot.*, 797 F. Supp. 2d 375, 385 (S.D.N.Y. 2011), the parties also respectfully request that they be excused from the pre-motion letter requirement under Rule III.A of this Court's Individual Practices in Civil Cases. If the Court would prefer that the parties file such letters, the parties will gladly submit them at the Court's direction.

¹ Plaintiff has agreed that the draft *Vaughn* index cannot be shared with anyone outside the Knight First Amendment Institute. In addition, Plaintiff recognizes that the draft *Vaughn* index that Defendants will provide on August 19, 2020 is only a draft, and may change before Defendants file the final version of the document in support of their motion for summary judgment.

/s/ Anna Diakun

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